

PHILLIP A. TALBERT
United States Attorney
KIMBERLY A. SANCHEZ
Assistant United States Attorney
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4000
Facsimile: (559) 497-4099

Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

XAVIER ANTHONY RINCON
A/K/A JAVIER ANTHONY RINCON,

DEFENDANT.

CASE NO. 1:22-CR-00081-JLT-SKO

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
ORDER

CURRENT DATE: August 16, 2023
TIME: 1:00 p.m.
COURT: Hon. Sheila K. Oberto

STIPULATION

1. By previous order, this matter was set for status on August 16, 2023.
2. By this stipulation, defendant now moves to continue the status conference until September 6, 2023, and to exclude time between August 16, 2023, and September 6, 2023, under 18 U.S.C. § 3161(h)(7)(A), B(iv).
3. The parties agree and stipulate, and request that the Court find the following:
 - a) The government asserts the discovery has been provided to counsel. The government is aware of its ongoing discovery obligation.
 - b) The parties are currently in plea negotiations. Undersigned AUSA has taken the case over after the previously assigned AUSA left the office, and has engaged in substantive plea negotiations with defense. There are ongoing discussions regarding legal issues that need to be addressed before a plea agreement can be reached.

1 c) Counsel for defendant desires additional time to consult with his client, to review
2 the current charges, to conduct investigation and research related to the charges, to review and/or
3 copy discovery for this matter, to discuss potential resolutions with their client, to investigate
4 matters related to sentencing and plea resolution and to discuss those with the government, and
5 to prepare pretrial motions, and to otherwise prepare for trial.

6 d) Counsel for defendant believes that failure to grant the above-requested
7 continuance would deny them the reasonable time necessary for effective preparation, taking into
8 account the exercise of due diligence.

9 e) The government does not object to the continuance.

10 f) Based on the above-stated findings, the ends of justice served by continuing the
11 case as requested outweigh the interest of the public and the defendants in a trial within the
12 original date prescribed by the Speedy Trial Act.

13 g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
14 et seq., within which trial must commence, the time period of August 16, 2023 to September 6,
15 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv), because it
16 results from a continuance granted by the Court at defendants' request on the basis of the Court's
17 finding that the ends of justice served by taking such action outweigh the best interest of the
18 public and the defendant in a speedy trial.

19 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
20 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
21 must commence.

22 IT IS SO STIPULATED.

23
24 Dated: : August 11, 2023

PHILLIP A. TALBERT
United States Attorney

25
26 /s/ KIMBERLY A. SANCHEZ
KIMBERLY A. SANCHEZ
27 Assistant United States Attorney
28

1 Dated: August 11, 2023

/s/ JEFFREY T. HAMMERSCHMIDT
JEFFREY T. HAMMERSCHMIDT
Counsel for Defendant

3
4 **ORDER**

5 IT IS SO ORDERED.

6 Dated: 8/11/2023

7 *Sheila K. Oberto*
8 Hon. Sheila K. Oberto
9 U.S. Magistrate Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28